

1  
2 HERBERT M. ROWLAND (SB 72461)  
3 PATRICK M. MACIAS (SB 118167)  
4 RAGGHIANTI FREITAS LLP  
5 874 Fourth Street, Suite D  
San Rafael, California 94901  
Telephone: (415) 453-9433  
Facsimile: (415) 453-8269

6 Attorneys for Defendants and Cross-claimants  
7 Jean L. Ryan, Lawrence Cavallini and Kathy Cavallini

8

9 **UNITED STATES BANKRUPTCY COURT**

10 **NORTHERN DISTRICT OF CALIFORNIA**

11 **SAN FRANCISCO DIVISION**

12  
13  
14 In re } Case No. 05-32933-DM-11  
15 JOHN A. and DANIELLE T. RYAN, } Chapter 11  
16 Debtors }  
17 \_\_\_\_\_ } Adversary Proceeding  
18 NICKLOS CIOLINO, et al., } No. 05-3428  
19 Plaintiffs }  
20 vs. }  
21 JOHN A. RYAN, et al., }  
22 Defendants. }  
23 \_\_\_\_\_ }  
24 E. LYNN SCHOENMANN, }  
25 Plaintiff-in-Intervention }  
26 vs. }  
27 LAWRENCE CHAZEN, et al., }  
28 Defendants. }  
29 \_\_\_\_\_ }

1  
ANSWER OF DEFENDANTS JEAN L RYAN, LAWRENCE CAVALLINI  
AND KATHY CAVALLINI TO COMPLAINT IN INTERVENTION

Come now Defendants Lawrence Cavallini, Kathy Cavallini and Jean Ryan and answer the Complaint In Intervention (“Complaint”) as follows:

## JURISDICTION

1. Answering the allegations of Paragraphs 1 through 4 of the Complaint, Defendants admit said allegations and admit that this Court has jurisdiction over this adversary proceeding and that it is a core matter:

## PARTIES

2. Answering the allegations of Paragraphs 5 through 13 of the Complaint, Defendants admit said allegations.

## FACTUAL BACKGROUND

3. Defendants admit the allegations of Paragraphs 14 and 15 of the Complaint.

4. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraphs 16 and 17 of the Complaint and on that basis deny them.

5. Defendants admit the allegations of Paragraph 18 of the Complaint

6. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations contained in Paragraphs 19 and 20 of the Complaint and on that basis deny them.

## **FIRST CLAIM FOR RELIEF**

7. Defendants incorporate their responses to Paragraphs 1 through 20 of the Complaint as though set forth in full.

8. As to any transfers made to these answering Defendants, Defendants deny the allegations of paragraphs 22 through 24 of the Complaint.

## SECOND CLAIM FOR RELIEF

9. Defendants incorporate their responses to Paragraphs 1 through 20 of the Complaint as though set forth in full.

10. As to any transfers made to these answering Defendants, Defendants deny the allegations of paragraphs 26 through 29 of the Complaint.

## THIRD CLAIM FOR RELIEF

11. Defendants incorporate their responses to Paragraphs 1 through 20 of the Complaint as though set forth in full.

12. As to any transfers made to these answering Defendants, Defendants deny the allegations of paragraphs 31 through 34 of the Complaint.

WHEREFORE, Defendants Lawrence Cavallini, Kathy Cavallini, and Jean L. Ryan pray judgment as follows:

1. For an order determining that the lien of the deed of trust granted to them in order to secure an indebtedness of \$750,000, which deed of trust was recorded on January 7, 2004, is prior in right to the liens and claims of all other defendants.

2. That the liens claims by defendants Nicklos Ciolino, Charles Ciolino, Daniel DeLorenzi, Robert Aguilar and Stephen Daniele pursuant to the writs of attachment recorded on or about June 21, 2002, are invalid and void, and said writs of attachment do not constitute liens against the property; and

3. For such other relief as is proper in the premises.

Dated: February 15, 2008 RAGGHIANTI FREITAS  
A Limited Liability Partnership

By: /s/ Patrick M. Macias  
Patrick M. Macias  
Attorneys for Defendants and Cross-claimants,  
Jean L. Ryan, Kathy Cavallini, and Lawrence  
Cavallini

## PROOF OF SERVICE

1. At the time of service I was over 18 years of age and not a party to this action.
2. My business address is 874 Fourth Street, Suite D, San Rafael, California 94901.
3. On February 15, 2008 I served the following document(s):

ANSWER OF DEFENDANTS JEAN L. RYAN, LAWRENCE CAVALLINI  
AND KATHY CAVALLINI TO COMPLAINT IN INTERVENTION

4. I served the documents on the persons below, as follows:

**See attached mailing list**

5. The documents were served by the following means:

**(a)** By personal service. I personally delivered the documents to the person(s) at the addresses listed in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

**(b) x** By United States mail. I enclosed the documents in a sealed envelope or package addressed to the person(s) at the addresses in item 4 and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Rafael, California.

(c)        By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the person(s) at the addresses in item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

1  
2 (d) \_\_\_\_ By messenger service. I served the documents by placing them in an  
3 envelope or package addressed to the person(s) at the addresses listed in item 4 and  
providing them to a professional messenger service for service.

4 (e) \_\_\_\_ By fax transmission. Based on an agreement of the parties to accept  
5 service by fax transmission, I faxed the documents to the person(s) at the fax  
6 numbers listed in item 4. I made such transmission from facsimile number 415-453-  
8269, at \_\_\_\_\_.m. No error was reported by the fax machine that I used. A copy  
7 of the record of the fax transmission, which I printed out, is attached.

8 (f) x By e-mail or electronic transmission. Based on a court order or an  
9 agreement of the parties to accept service by e-mail or electronic transmission, I  
10 caused the documents to be sent to the person(s) at the e-mail addresses listed in  
item 4. I did not receive, within a reasonable time after the transmission, any  
11 electronic message or other indication that the transmission was unsuccessful.

12 I declare under penalty of perjury under the laws of the State of California that  
13 the foregoing is true and correct.

14 Executed on February 15, 2008 at San Rafael, California.

15 /s/ Elaine J. Malfatti

16 Elaine J. Malfatti

## SERVICE LIST

T. Michael Turner, Esq.  
236 West Portal Avenue, Box 53  
San Francisco, CA 94127  
[tmt@lawyer.com](mailto:tmt@lawyer.com)

Phone: (415)677-0962  
Fax: (415)358-4578

Attorney for John A. Ryan and Danielle T. Ryan, Debtors, Debtors-in-Possession and Plaintiffs

Michael Liberty, Esq.  
1290 Howard Avenue #303  
Burlingame, CA 94010  
[mdlaw@pacbell.net](mailto:mdlaw@pacbell.net)

Phone: (650)685-8085  
Fax: (650)685-8086

Attorneys for Defendants Nicklos Ciolino,  
Charles Ciolino, Daniel Delorenzi, Robert  
Aguilar and Stephen Daniele

Michele McGill, Esq.  
220 Sansome Street #600  
San Francisco, CA 94104  
[michelelmcgill@earthlink.net](mailto:michelelmcgill@earthlink.net)

Phone: (415)334-8080  
Fax: (415)398-1567

Attorney for Defendant Lawrence Chazen

Iain MacDonald, Esq.  
2 Embarcadero Center #1670  
San Francisco, CA 94111  
[iain@macdonaldlawsf.com](mailto:iain@macdonaldlawsf.com)

Phone: (415)362-0449  
Fax: (415)394-5544

Attorney for Defendant Lawrence Chazen

Laurie J. Hepler, Esq.  
44 Montgomery Street #400  
San Francisco, CA 94104

Phone: (415)743-2218  
Fax: (415)989-0932

Attorney for Defendant Lawrence Chazen

Desmond Tuck, Esq.  
177 Bovet Road #600  
San Mateo, CA 94402  
[destuck@aol.com](mailto:destuck@aol.com)

Phone: (650)341-1895  
Fax: (650)345-9651

Attorney for Defendant William F. Stewart

Michael Mazzoccone, Esq.  
400 Montgomery Street #200  
San Francisco, CA 94104  
[michael@mazzlaw.com](mailto:michael@mazzlaw.com)

Phone: (415)399-0800  
Fax: (415)399-0900

Attorney for Defendants Craig Judy and  
Patricia Judy

Thomas F. Koegel, Esq.  
Folger Levin & Kahn LLP  
Embarcadero Center West  
275 Battery Street, 23<sup>rd</sup> Floor  
San Francisco, CA 94111  
[tkoegel@flk.com](mailto:tkoegel@flk.com)

Phone: 986-2800  
Fax: 986-2827

Attorneys for Chapter 11 Trustee E. Lynn  
Schoenmann

James F. Beiden  
Law Offices of James F. Beiden  
840 Hinckley Road, #245  
Burlingame, CA 94010  
[attyjfb@yahoo.com](mailto:attyjfb@yahoo.com)

Phone: (650) 697-6100  
Fax: (650) 685-8056

Attorneys for Nicklos Ciolino, Charles Ciolino, Daniel DeLorenzi, Robert Aguilar, and Stephen Daniele, Defendants and Debtors